

**MAIN ROADS AMENDMENT BILL 2023**

*Second Reading*

Resumed from 15 June.

**HON NEIL THOMSON (Mining and Pastoral)** [4.02 pm]: I rise again to speak on a second piece of legislation today, the Main Roads Amendment Bill 2023. We are very busy today! We, the opposition here, are very hardworking and we do so for the good of Western Australia. We hold this government to account and bring it down, as they say, to use the words of Hon Peter Collier.

**Hon Kyle McGinn** interjected.

**Hon NEIL THOMSON:** Just wait, Hon Kyle McGinn.

I rise on behalf of the opposition to say that we will be supporting the Main Roads Amendment Bill. In saying that, there are a number of points that are worthy of bringing to the fore. It is interesting that quite a significant set of changes to the powers of the Commissioner of Main Roads Western Australia to undertake commercial activities will be put in place. I would go so far as to say that currently Main Roads has quite a lot on its plate, and I am curious to know what additional activities Main Roads proposes it will undertake with these powers, or which activities are currently curtailed by not having these powers. I know Hon Dr Steve Thomas would probably say—if I can verbal and paraphrase him a little—that these are right-wing policies for economic development in the private sector.

**Hon Dr Steve Thomas:** I'm only in the far right wing, not the extreme right wing! It's okay.

**Hon NEIL THOMSON:** He is not in the extreme right wing!

Taking a more considered position on this—I am not saying that Hon Dr Steve Thomas is not very considered in the matters he raises—when government agencies start to expand their commercial operations and empires, it poses a few challenges, because there is always risk. In fact, I look at work done back in the 1990s, which had tripartisan support of the Liberals, Nationals WA and Labor, pushed out through the COAG reforms at the time under the national competition principles agreement. In particular, I refer to clause 3 of the agreement, which relates to government enterprises. It is about competitive neutrality and making sure that the private sector is not crowded out by the activities of the public sector. Although I do not think the bill has any bearing on this per se, I would be interested to know in the minister's response whether the decision to bring road maintenance activities in-house has had any bearing on it. I do not think it does because my reading of the bill is that it is more about a whole range of provisions such as the use of reserve land and activities, and undertakings for which Main Roads might expand its commercial arrangements. There are also some issues around contracts and business arrangements that require approval of the minister and Treasurer.

The opposition is certainly not going to oppose the bill. We in fact support this bill; however, there is always an element of caution. The activities and operations, as described in the explanatory memorandum, are said to be constrained by the powers and duties conferred on the Commissioner of Main Roads, and it refers to expanding those powers. There are other aspects to the bill, such as heavy vehicle charging, forming contracts, and innovative business arrangements. Sometimes the terminology used by the other side is code; for example, "innovative business arrangements" might mean that there will be a relaxing of restriction or control, which might not necessarily be in the public interest. The bill contains matters relating to adjoining works and a whole range of issues to do with infringements and enhancing regulation-making powers. Again, to the large extent that I can tell, those regulation-making powers all seem to be reasonable. However, the opposition always comes from the perspective of being a little bit cynical when we look at what the government puts forward to expand the capacity of a public agency to start to engage in activities that might otherwise be delivered by the private sector.

Usually these things, in my experience and understanding of the public sector, often start with very good intent indeed, but, over time, we end up with a degree of empire building going on within agencies. That is no reflection on Main Roads at all; that is just a fact of life in a public sector that does not suffer the same commercial disciplines that occur in the private sector. The public sector is also not subject to the same shareholder concerns or even the concern of simply being profitable. The concern I have is that I could not find anywhere where the proposed changes, particularly the commercial arrangements, were couched with a requirement to adhere to clause 3 of the competition principles agreement to make sure that competitive neutrality is applied. Maybe it is gratuitous advice, because I do not think the government is necessarily going to take any advice that I will give on this matter. However, I will put on the record in *Hansard* that I think that is something worthy of doing. I am certain that at some point in time with these enhanced commercial powers, the very efficient and competent Auditor General—or whoever might replace the Auditor General in due course when they are no longer in that job in the future—might also want to consider this matter.

In her second reading speech, the minister stated —

This bill will provide Main Roads a power to enter into a wider range of commercial arrangements, including profit sharing ...

That is the first point. I must say that raises some red flags. Again, I have said that we are supporting the bill, but I think it is worthy of debate. I am wondering what types of profit-sharing arrangements the minister envisioned. How would the community have the comfort that no special deals were being done with any companies involved in that profit-sharing arrangement? What level of control will be put in place to ensure that those profit-sharing arrangements are not only conferring an advantage on Main Roads—which already has an advantage in that it is underpinned and underwritten by the taxpayer? I am sure that the issue of profit loss is also a matter of concern, particularly for the taxpayer of Western Australia—underpinned by the enormous reserves of our Western Australian government sector. It may confer an advantage on a particular entity, given all the other sorts of arrangements that this minister seems to be quite keen on. I understand that the process of those arrangements by the Minister for Transport and the Treasurer—who are one and the same person—are still managed by the Department of Planning, Lands and Heritage. That is the market-led process. I understand that the minister, Hon Rita Saffioti, did not forgo that responsibility when the change in portfolios was made and John Carey took over the planning portfolio. I understand that Rita Saffioti has a particular interest in hardhats and fluoro and getting projects done. I am not sure with the most recent report by the Auditor General, which identified 20 audited projects and 100 or more major capital projects that are underway, that those projects will actually be delivered on time.

My point is that Main Roads is a major player in this space. We have had some criticism from former public servants who are now retired. I cannot recall his name at the top of my head, but a certain former member of the Public Transport Authority talked quite at length about the role of Main Roads in the delivery of Metronet. I would suggest that the Minister for Transport and the Treasurer—the one and the same person—has a particular interest and faith in Main Roads. I also want to commend Main Roads. I know there will be members of Main Roads that will watch over this. I also commend the work that they do and have done for many decades in Western Australia. I want to commend Main Roads for the delivery of the bridge project in Fitzroy Crossing. Some in this place have said that I was not supporting the workers, which is entirely incorrect. I have never said that at all. I have always only criticised the lack of information and the ability of the minister to come up with contingencies in providing information about the opening of the bridge. I will keep putting that on the record because it has never been the case that I have criticised Main Roads doing its core business.

We have a bill here that, according to the minister, will allow commercial arrangements including profit-sharing and innovative business arrangements. Although I have said the opposition supports the legislation, I think a very strong eye will be cast over the performance of Main Roads as it branches out from its core business of delivering highways. Main Roads has now extended into managing some of the civil contracting around the delivery of some aspects of Metronet and profit-sharing arrangements. We are also seeing it go into innovative business arrangements. The words of the minister are that those business arrangements are “to be subject to minister and Treasurer approval”. The problem with that is that it is the selfsame person! It is a little bit ironic because that selfsame person had to write to themselves about the fact that one of their portfolio agencies had not got its annual report in on time. I suggest that selfsame person is going to be writing letters to self about the failure to deliver a whole massive range of projects involving the very overstretched workers and hardworking Main Roads team. The minister has now probably pinned the aspirations of the whole Labor Party on those projects for the 2025 election.

I have looked at deadlines applied for many projects on the Building for Tomorrow website, many of which are being delivered by Main Roads. There is a strange accumulation of projects occurring with a deadline that ends in 2024. In fact, I have kept an eye on that. I have had my staff watching briefings and taking screenshots of those deadlines and it is quite interesting to see things being changed. The more I bring it up, the more that website is changed. Deadlines suddenly seem to evaporate off the website, especially ones that are six months past their deadlines. For example, yesterday I asked about the deadline for the Tonkin gap project, which has a completion deadline in 2023. It will not surprise me if that website is amended in the next few days and that deadline suddenly either changes or disappears. This is relevant to this bill because I am concerned: Are we expecting too much of Main Roads? Are we going to create additional complexity with the provision of these powers?

I go back to the minister’s comments in the second reading speech. He said —

... those business arrangements to be subject to approval by the minister and Treasurer;

That will be done pretty quickly. The minister continued —

expand the functions and powers of Main Roads to reflect a modern road authority ...

We have just gone through the debate on the Marine Safety (Domestic Commercial Vessel National Law Application) Bill 2023. Obviously, that was much more straightforward, because there seems to be a very strong public interest case there. What bothers me is the government’s loose utilisation of the word “modern” when it presents bills. Not so long ago, a bill was presented to this place that purported to modernise Aboriginal cultural heritage laws, and whenever anyone raised concerns about how that modernisation would impact on the community, we were vilified. The issue here is the need for a modern road authority. I would like the minister representing the Minister for Transport to outline what a modern road authority might look like. Main Roads’ primary function is as a project manager providing some level of

policy advice on the operation and maintenance of our roads. To a large extent that is through contracting services—we now know it is through the implementation of some in-house services as well—for the delivery of projects that are of substantial scope and scale, relating to things like bridges, freeways and highways within our state. Now, we are somehow saying that we do not have a modern road authority. Again, I wonder whether “modern” is just code for an agency that is going to be doing a whole lot of things that maybe the private sector could deliver. Maybe Main Roads should have a clear focus on making sure that our road network is functioning properly, and things that are not core to the business of Main Roads should be moved out into the private domain as soon as possible. I think there is a risk that there will be an accumulation of activities that might distract Main Roads from its core business.

The second reading speech continues —

... with regard to managing land and roadside activities;

This again raises the issue of land and roadside activities. I think that Main Roads should absolutely be, and is, involved with a whole range of roadside activities like the free truck stops, which are important for road safety and fatigue management on our highways, or the free layover areas for our grey nomads. The ongoing management of those facilities often ends up in the remit of local government; however, essentially, Main Roads manages road reserves and the establishment and construction of those facilities for the motoring public. The wording—this code—“profit sharing and innovative business arrangements” makes me wonder whether there is a suggestion that Main Roads might get involved in some sort of profit-sharing arrangement for a service station along the freeway, on the side of the road or on some surplus land, for example, that then becomes a long-term arrangement, and suddenly Main Roads is somehow the owner of a commercial arrangement. Who knows where it will stop? It could include other retail activities. I am not sure that is necessarily where Main Roads should be going. Maybe there is a case for the government to enter into some sort of arrangement; it may be an innovative business arrangement in the initial instance, but what guarantee do we have that that innovative business arrangement will not end up as simply an excuse to crowd out something that should be the role of the private sector?

I know from my experience that there are large areas of land that are surplus to requirements within the Main Roads road reserve; that is a fact. When I was with the Department of Planning, there was a major project looking at excess land for potential development. There was a level of tension in the discussions in the department at the time about what land might be suitable for retention, because modern freeway and off-ramp designs do not necessarily ascribe to those of the 1960s. When the Stephenson–Hepburn plan was put in place, vast areas of land were identified red on the scheme because massive cloverleaf-shaped off-ramps were planned as part of a broader nirvana of huge freeways across our landscape. Over time, because of changes in technology and design, we now build interchanges with much more land-use efficiency. I do not know how far that project progressed or whether Main Roads ever gave up any of that land for the development of affordable housing, for example. We have seen major changes in the machinery-of-government process as government has gone through and looked at changing a range of things in the use of reserves, but I am worried that if Main Roads thinks that there may be an opportunity to develop its land, for example, that might again crowd out the Housing Authority or DevelopmentWA from getting on with the job.

There might be some tension between Hon John Carey and Hon Rita Saffioti. She has a very powerful role as both Minister for Transport and Treasurer and she can approve certain activities; Hon John Carey might have other ideas for delivering social outcomes across our state. I think that issue will provide challenges.

The second reading speech continues —

... with regard to managing land and roadside activities; and provide Main Roads the ability to facilitate the operation of road service centres, or roadhouses, and to acquire and lease land for any purposes under the act.

I referred to roadhouses and road service centres. It is not just for those activities; Main Roads may “acquire and lease land for any purposes under the act”. Certainly, I would like to understand to what extent the act will limit Main Roads at all in any of those commercial activities or profit-sharing or innovative business arrangements that the Minister for Transport was very proud to reflect upon when she presented this bill. As I said, I do not disagree with the principles outlined in the bill, but I have concerns about the omission of putting in place controls that will ensure Main Roads continues on with its good work and focuses on its core business so that it does not end up creating something that impacts on commercial operators.

Debate interrupted, pursuant to standing orders.

[Continued on page 5612.]